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February 25, 2025

VIA ECF

Honorable Jennifer L. Rochon
United States District Court
Southern District of New York
500 Pearl Street – Courtroom 20B
New York, New York 10007

Re: Morgan Art Foundation Limited v. McKenzie d/b/a American Image Art
Civil No.: 1:18-cv-04438-JLR-BCM

Dear Judge Rochon:

Please be advised that the undersigned counsel represents Defendant, Michael McKenzie d/b/a American Image Art. I am writing to respectfully request a second and final extension of time to file objections to the Report and Recommendations issued by Magistrate Judge Barbara C. Moses regarding Plaintiff, Morgan Art Foundation Limited's, motion for terminating sanctions as against my client. *See* ECF Doc. No.: "560," Report and Recommendations.

Pursuant to your Individual Rules of Practice in Civil Cases, please be further advised that the original deadline for Defendant's filing of objections was February 7, 2025.¹ Thereafter, the undersigned sent a letter to Your Honor requesting a three ("3") week extension of said deadline until, and including, February 28, 2025.

As stated within the letter, dated February 3, 2025, this office was retained following the issuance of the Order on prior counsel's Motion to Withdraw and was awaiting receipt of a USB flash drive with the entirety of the files received and exchanged between the parties in this matter during approximately four ("4") years of discovery. This Honorable Court granted my first request for an extension upon consent of my adversary, Luke Nikas, Esq.

¹ It is stated within the Report and Recommendations that Defendant shall file objections within seventeen ("17") days of the date of mailing of the Report and Recommendations by the Clerk. *See* ECF Doc. No.: "560," Page "52." The Report and Recommendations were mailed on January 21, 2025. *Id.*

The undersigned counsel hereby respectfully requests a one-week extension to file the objections until, and including, March 7, 2025. This second and final application for additional time is once again made with the consent of Plaintiff's counsel.

The request is submitted as a result of my office receiving not ("1") one, but ("2") two, USB flash drives which contain a total of fifty-four ("54") gigabytes of documents. *See Exhibit "1,"* content of USB flash drives from prior counsel.

Unfortunately, the flash drives were received as of February 19, 2025, thus leaving the undersigned counsel only nine ("9") days to review thousands of pages of documents and potentially incorporate any relevant information contained therein into the objections to the Report and Recommendations. *See Exhibit "2,"* email exchange with prior counsel regarding the mailing of the USB flash drives.

Our review of said documents is indispensable to the drafting of the objections to the Report and Recommendations as it is alleged within said motion that Defendant has committed egregious discovery violations, thus warranting terminating sanctions. By way of background, the relief recommended by Magistrate Judge Barbara C. Moses in her Report and Recommendations is the striking of Defendant's Second, Third, Fourth, and Eighth Counterclaims; the award of a default judgment to Plaintiff on its claim for tortious interference of contract; preclusion of Defendant from making any affirmative use of certain documents and witnesses; and an award of counsel fees and disbursements to Plaintiff.

Accordingly, as the undersigned counsel is unable to address the specific discovery violations alleged against the Defendant without a thorough review of the files produced and exchanged during discovery, a final short extension of time is respectfully requested.

Thank you very much in advance for the Court's time and consideration. If necessary, the undersigned is available to discuss any issues or concerns regarding this correspondence at the Court's convenience.

Respectfully submitted,

NICOLE BRENECKI, ESQ.

Partner